

REMARKS

A. Claims 1-21

Claims 1-21 were rejected as being unpatentable over Albert (U.S. Patent No. 6,264,614) in view of Sato (U.S. Patent No. 5,911,687). Applicant respectfully traverses.

Albert discloses the collection of physiological patient data and transfer of the data over an Internet connection to an end user. In Albert, the patient logs-on to the address of a remote site and data is transferred for storage in a database. An end user site can be automatically addressed as a link from the addressed site. Albert is recognized as not disclosing a "pay for use" system wherein monitoring data packages to determine revenue for the service is performed. However, Albert also does not disclose the enabling of a database network site to communicate with at least one web-enabled web-site to receive web-site originated signals requesting access to the database of stored physiological data. The office action alleges that feature to be disclosed in column 5, lines 20-67. But, a fair reading of that portion of Albert speaks only to a patient being able to log-on to the system for the purpose of transmitting physiological data. As is clear from the written description, the present invention contemplates access by a healthcare system. See, e.g., pages 17-20. Thus, absent from Albert is more than merely the fee assessing portion of the claimed method.

Sato is alleged to provide the service revenue limitation of claim 1. Sato discloses a wide area medical information system. As indicated in Sato, the system implements a "virtual hospital." (See, column 2, lines 32-36.) One aspect of this virtual hospital is of course a billing system wherein a financial institution is accessed to obtain payment for the treatment of the patient. As Sato also makes clear, the billing system is nothing more than a shortcut method to obtain payment without waiting for

accounting which is required in a typical hospital. (See, column 3, lines 27-30.) Sato, therefore, fails to disclose the limitation of claim 1 of monitoring data packages to determine revenue for the service. Moreover, Sato also does not disclose the limitation that is also absent from Albert of enabling a database network site to communicate with at least one web-enabled web-site and to receive web-site originated signals requesting access to the database of stored physiological data.

The combination of Albert and Sato fails to provide the subject matter of claim 1 and the obviousness rejection necessarily fails as a result.

Claim 8 specifies that second inputs are received at the web-site requesting access to the database and that the originator of the second inputs is enabled to have access to the database via the secure web site. Claims 14 and 18 are similar. While the office action recognizes that this feature is absent from Albert, the contention is made that Sato suggests the feature of enabling access to the database. However, there is no indication in Sato of an Internet-based network. In fact, Sato discloses just the opposite and limits itself to a wide area network, which necessarily excludes an Internet web-based communications network. Consequently, claims 8, 14 and 18 cannot be rendered unpatentable by a combination of Albert and Sato.

B. Claim 32

Claim 32 was rejected as being unpatentable over Albert (U.S. Patent No. 6,264,614) in view of Krichen (U.S. Patent No. 6,250,309). Applicant respectfully traverses.

The office action acknowledges that Albert does not disclose an IMD. But, claim 32 also specifies that information flow paths for the healthcare professional are

provided to further contribute to the knowledge database and patient engagement by offering the patient and a patient's designated advocate direct information about the high relevance biologic data thereby actively engaging the patient in a highly content rich yet efficient manner. This limitation of claim 32 is also absent from Albert. While Albert discloses patient access to a site for acquiring data from the patient, nowhere does Albert suggest that an information flow path is also established for a healthcare profession to contribute direct information by actively engaging the patient. Accordingly, regardless of whether there is any suggestion from Krichen to use Albert to acquire data from a patient with an IMD, the combination of Albert and Krichen does not result in the subject matter of claim 32. The rejection is in error and should be withdrawn.

C. Claims 33-38 and 73-74

Claims 33-38 and 73-74 were rejected as being unpatentable over Albert (U.S. Patent No. 6,264,614) in view of '478 Brown (U.S. Patent No. 6,101,478).

Claims 33 and 35 have been amended to recite that the database network site is enabled to communicate with at least one web-enabled web-site and to receive web-site originated signals requesting access to the database. This limitation is similar to the limitation in claims 8, 14 and 18. A combination of Albert and Sato have been shown to be without this limitation. There is no indication in '478 Brown that the limitation is present in it. Claims 33 and 35 are distinguishable over Albert and '478 Brown.

Claims 73 and 74 were also rejected on the combination of Albert and '478 Brown. The office action found that identity of the medical device, the patient and the originator of the second data inputs were absent in Albert but provided by '478 Brown. Clearly, there is no "second data inputs" to the database in Albert. Therefore, to the

extent there is any disclosure of in '478 Brown of the identity of the originator of second data inputs, which Applicant contends there is not, Albert could not make use of it anyway. Thus, there is no motivation to combine Albert and '478 Brown.

D. Claims 39 and 68

Claims 39 and 68 were rejected as being unpatentable over Albert (U.S. Patent No. 6,264,614) in view of '563 Brown (U.S. Patent No. 6,168,563).

Claim 39 has been amended to recite that the network includes means for enabling the database network site to communicate with at least one web-enabled web-site and to receive web-site originated signals requesting access to the database. Claim 68 has been similarly amended to recite a database site and means for enabling the database network site to communicate with at least one web-enabled web-site and to receive web-site originated signals requesting access to the database. This limitation is not present in either Albert or '563 Brown.

E. Claims 40-47

Claims 40-47, 66-67, and 69-72 were rejected as being unpatentable over '563 Brown (U.S. Patent No. 6,168,563) in view of Sato (U.S. Patent No. 5,911,687).

Claims 40-43 have been amended to recite that the server includes means for enabling the database to communicate with at least one web-enabled web-site and to receive web-site originated signals requesting access to the database. Although '563 Brown includes a web-based server having a database (see col. 25, lines 3-7 and 44-45), there is no disclosure of access to the server by any one other than the patient. Accordingly, the combination of '563 Brown and Sato does not render amended claims 40-43 unpatentable.

Claim 44 has been similarly amended. Claim 44 already recites that the server is web-based. The office action indicates that '563 Brown does not disclose a web-based server. However, such indication is found in '563 Brown at column 25, lines 3-7. The office action is further in error in asserting that Sato discloses a web-based server. Sato discloses a virtual hospital which is constructed based upon a dedicated wide area network and not the Internet. Claim 44 in any event distinguishes '563 Brown and Sato, individually as well as in combination, because there is an absence of disclosure of access to the server by a web-enabled web-site. Claim 44 is therefore patentable over the cited references.

Claim 47 has also been amended to recite that the server database can be enabled to be accessible by a web-based web-site. Again, neither the '563 Brown or Sato references disclose this feature. Claim 47 is therefore patentable.

F. Claims 66-67

Claims 66-67 were rejected as being unpatentable over '563 Brown (U.S. Patent No. 6,168,563) in view of Sato (U.S. Patent No. 5,911,687). Applicant respectfully traverses.

The basis for the rejection is the view that, although '563 Brown does not disclose a service available over a secure Internet channel, Sato does. However, as has been pointed out already, Sato is based on a private, wide area network and is not Internet based. Moreover, although Brown does disclose a web-based server having a database, there is no indication that it is accessible over a secure channel. Accordingly, the rejection of claims 66 and 67 should be withdrawn.

G. Claims 69-72

Claims 69-72 were rejected as being unpatentable over '563 Brown (U.S. Patent No. 6,168,563) in view of Sato (U.S. Patent No. 5,911,687). The office action indicates that Brown does not disclose server database access by a medical device manufacturer computer as set forth in claims 69 and 72, but Sato does. Applicant respectfully traverses.

The virtual hospital wide area network of Sato does not in any way contemplate access by a medical device manufacturer. The office action references columns 5 and 6 of Sato for support. But, nowhere in that portion of the written description can be found anything that even hints at access by a medical device manufacturer.

H. Conclusion

Although the prior art of record discloses various web-based networks for collecting patient information and providing access by healthcare professionals, absent are the combination of features and functionality set forth in the pending claims. Based upon the foregoing amendments, Applicant submits that the claims now pending are in condition for allowance.

Respectfully submitted,

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